

REMARKS

By the above amendment, the title has been amended in accordance with the suggestion of the Examiner such that the objection to the title should now be overcome.

With regard to the objection to the disclosure in that at line 16 of page 20, "11" should read --22--, applicants note that the application papers filed on July 17, 2003 included a preliminary amendment with a substitute specification in which the substitute specification at page 14, line 27 utilizes the appropriate designation of "secondary signals 22", noting that the marked up copy shows the correction of page 20. Thus, applicants submit that correction is not required in that the substitute specification properly utilizes the reference numeral 22 therein.

As to the rejection of claims 1 - 12 under 35 USC 102(a) as being anticipated by Nasu et al (US 2004/0051040A1 or PCT/JP02/02983 or JP 2001-259126) and the rejection of claims 1 - 12 under 35 USC 102(a) as being anticipated by Nasu et al (US 2004/0051040A1), such rejections are traversed as being improper and reconsideration and withdrawal of the rejections are respectfully requested.

At the outset, applicants note that the present application has a US filing date of July 17, 2003 and claims priority for JP 2003-013127, filed in Japan on January 22, 2003, with the certified copy of the priority document being submitted with the application papers on July 17, 2003. Applicants note that applicants are preparing a verified English translation of such priority document and submit that applicants are entitled to the filing date of the Japanese priority application of January 22, 2003.

With regard to the requirements of 35 USC 102(a), it is noted that this paragraph provides that:

The invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent ... (emphasis added)

With regard to the publication of US 2004/0051040A1, the publication date is March 18, 2004 which is subsequent to the US filing date of July 17, 2003 as well as the priority date of this application of January 22, 2003, such that the rejection under 35 USC 102(a) with regard to such publication necessarily falls. Applicants note that the publication is apparently based on PCT/JP02/02983 and according to the records of the US Patent and Trademark Office has a filing of 371(c) date of June 18, 2003, and apparently is based on Japanese Application JP 2001-259126.

With regard to PCT/JP02/02983, such PCT application was apparently published as WO 03/021186A1 on March 13, 2003, such that the publication date of the PCT application of March 13, 2003 is also subsequent to the priority date of January 22, 2003.

Thus, the utilization of PCT/JP02/02983 also necessarily falls under 35 USC 102(a). With regard to JP 2001/259126, applicants advise that such Japanese application was not laid-open or published, such that applicants submit that JP 2001-259126 is also not properly utilizable under 35 USC 102(a).

For the foregoing reasons, applicants submit that the rejections of claims 1 - 12 over the documents listed are improper under 35 USC 102(a), such that these rejections should be overcome.

As to the rejection under 35 USC 102(e), applicants note that this paragraph of 35 USC 102 provides that:

The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the application for patent, or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the Treaty defined in section 351(a) shall have

the effects for the purpose of this subsection of an application filed in United States only if the international application designated the United States and was published under Article 21(2) of such Treaty, in the English language ... (emphasis added).

As pointed out above, the published patent application No. US 2004/0051040A1 was published on March 18, 2004 and has a 371(c) date of June 18, 2003 which 371(c) date is subsequent to the claimed priority date of January 22, 2003, to which the present application is entitled. In this regard, it is noted that the PCT application was not published in the English language, and therefor, applicants submit that the rejection of the claims under 35 USC 102(e) also necessarily fails. Thus, applicants submit that this rejection should also be overcome.

Applicants note that applicants are presently obtaining a verified English translation of the priority document and intend to submit the same in accordance with the procedures set forth in MPEP 201.15.

In view of the above amendments and remarks, applicants submit that this application patentably distinguish over the cited art and should be in condition for allowance. Accordingly, issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 501.42786X00),
and please credit any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



Melvin Kraus
Registration No. 22,466

MK/jla
(703) 312-6600